

STATE OF MAINE  
PUBLIC UTILITIES COMMISSION

Docket No. 2004-692

November 23, 2004

RICHARD DEEGAN  
Appeal of Consumer Assistance Division  
Decision Regarding Bangor Hydro-Electric  
Company

ORDER

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WELCH, Chairman; DIAMOND and REISHUS, Commissioners

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**I. SUMMARY**

In this Order, we uphold the September 29, 2004 decision of our Consumer Assistance Division (CAD) concerning Bangor Hydro-Electric Company (BHE) customer Richard Deegan.

**II. BACKGROUND**

On May 19, 2004, Mr. Deegan contacted CAD about an unresolved dispute with BHE. During a snowstorm in early April, Mr. Deegan's home experienced a power outage. Mr. Deegan claims that \$2,243.50 worth of damage occurred to equipment and appliances in his home due to a power surge at the time of the outage. BHE responded that four to six inches of heavy snow fell during the storm and it is likely the outage and surge resulted from the primary wire contacting the neutral wire below it. It denied the claim because the damage was due to weather. The CAD found that BHE had acted in compliance with its tariffs, Section 12-C,<sup>1</sup> and that there was no evidence that it had violated any other duty or obligation in installing and maintaining its wires.

On October 4, 2004, Mr. Deegan appealed CAD's decision to the Commission. He provided no new information beyond his claim that the power surge caused a significant financial loss and BHE refused to compensate him.

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<sup>1</sup> BHE's Terms and Conditions provides in Section 12-C:

LIABILITY FOR CONTINUOUS SERVICE. The Company shall not be liable for any interruption, discontinuance or reversal of its service due to causes beyond its immediate control whether accident, labor difficulties, the necessity of making repairs, condition of fuel supply, the interference of any public authority failure to receive any electricity for which in any manner it has contracted or inability to maintain uninterrupted and continuous service.

### III. DISCUSSION AND DECISION

As explained by CAD in its decision, the Commission does not have the statutory authority to award damages. The Commission can, however, determine whether a utility has complied with statutory requirements and Commission regulations in providing service and whether a utility has breached any duty or obligation to a customer. A customer could use such findings in pursuing damages in a court of proper jurisdiction.

Maine statutes require every transmission and distribution utility to design, construct, operate and maintain its lines and equipment in conformance with the National Electric Safety Code. 35-A M.R.S.A. § 2305-A. In this instance, CAD found no evidence that BHE had violated any statutory requirements or acted unreasonably in installing the poles and wiring leading to Mr. Deegan's residence. The distance between the two wires of 30 inches complied with BHE's standards and with the National Electric Safety Code requirements of at least 16 inches of separation. There was no evidence that the fuse coordination or protection system was inadequate.

We find that CAD properly investigated the situation and found that BHE had not breached any Commission mandated duty or obligation. Therefore, we uphold CAD's decision. As stated by CAD, nothing in our order or CAD's decision prevents Mr. Deegan from pursuing his claims in court. He may also be able to file a claim with his own homeowner's insurer.

Dated at Augusta, Maine, this 23<sup>rd</sup> day of November, 2004.

BY ORDER OF THE COMMISSION

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Dennis L. Keschl  
Administrative Director

COMMISSIONERS VOTING FOR:      Welch  
   Diamond  
   Reishus

## NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.